



# State Bar of Michigan

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John T. Berry  
Executive Director

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May 5, 2003

OFFICE OF  
THE CHIEF JUSTICE

Ms. Linda Mohny Rhodus  
Administrative Counsel  
Michigan Supreme Court  
P.O. Box 30052  
Lansing, MI 48909

Re: File 2002-46, File 2001-29, File 2002-34, ADM File No. 2002-44, File 2002-54

Dear Ms. Rhodus:

At its meeting on April 25, 2003, the State Bar of Michigan Board of Commissioners considered the following proposed amendments published for comment by the Supreme Court, and took the following positions:

**File 2002-46 - Proposed Amendment of Rules 7.304, 9.114 and 9.122 of the Michigan Court Rules.** Original Proceedings, Action by Administrator or Commission after Answer and Review by Supreme Court, amending the word "mandamus".

**The Board of Commissioners voted to support the amendment in principle.**

**File 2001-29 - Proposed Amendment of MRE Rule 702.** Testimony by Experts.  
**The Board of Commissioners voted to support Alternative A, and oppose Alternative B.**

**File 2002-34 - Proposed Amendment of Rules 7.204, 7.210, 7.211, 7.212 and 7.216 of the Michigan Court Rules.** Filing Appeal of Right; Appearance, Transcript, Duties of Court Reporter or Recorder.

**Concerning the amendments relating to intake proceedings only, the Board of Commissioners voted to:**

- Support generally the ongoing efforts of the Court of Appeals to reduce appellate delay.
- Support funding for appellate delay reduction initiatives to reduce the "warehouse."
- Oppose the published revisions to MCR 7.212 that eliminate stipulated extensions of time to file briefs and shorten the time for filing briefs and reply briefs.
- Recommend further study, and urge attention to the recommendations of the Report of the State Bar of Michigan Task Force on Appellate Delay Reduction.



**ADM File No. 2002-44, Administrative Order 2002-5.** Differentiated Case Scheduling at the Court of Appeals.

The Board of Commissioners voted to adopt the recommendation of the Civil Procedure & Courts Committee to support a pilot program of differentiated case management in the Court of Appeals, and to defer endorsement of permanent differentiated case management scheduling until after publication of details about how such a program would be implemented and what effect the program is expected to have on the disposition of cases.

**File 2002-54 - Proposed New Rule 2.406 of the Michigan Court Rules.** Use of Facsimile  
The Board of Commissioners voted to support the new rule.

In addition to these positions, the Board of Commissioners adopted the following Statement of Principles concerning court funding:

#### **History**

Throughout its history, the State Bar of Michigan has consistently been a strong and vocal advocate for judicial branch funding that meets the needs of the public at all levels: sufficient numbers of judges and staff, training, facilities, security, technology, and indigent civil and criminal defense services. The following principles reflect the considerations that have traditionally been at the core of the State Bar's advocacy:

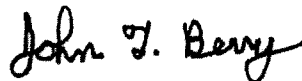
#### **Public Policy Principles Concerning Judicial Branch Funding**

1. The judicial branch budget should be sufficient to meet constitutional requirements and to provide adequate resources for timely, fair, and efficient disposition of cases.
2. Judicial branch funding in Michigan should be funded primarily by state general fund dollars, supplemented by local general fund dollars, filing fees, and court costs.
3. The judicial branch budget should include funding for indigent civil legal assistance.
4. Filing fee amounts should not be so high as to discourage the filing of valid complaints. The determination of the appropriate level of fees should include consideration of the necessary level of service, new system needs, comparison of fees in other jurisdictions, and inflation.
5. The requirement that judges waive or suspend payment of any fee, in whole or in part, upon a showing by affidavit of indigency or inability to pay, should be strictly observed.

The Public Policy, Image and Identity committee voted to take no position on File 2002-32 – Proposed Amendment of Rule 2.502, on the basis that the impact of the rule change would be negligible given the prevalence of scheduling orders. The State Bar's Civil Procedure and Courts committee had recommended against the proposed amendment, and the Legal Aid committee had recommended support. The Board of Commissioners took no position.

Thank you for the opportunity to offer the State Bar's input on these issues.

Sincerely,



John T. Berry  
Executive Director

cc: Janet Welch, General Counsel